REMARKS

Reconsideration and allowance of the present application are respectfully requested. Claims 1-16 remain pending in the application. By the amendment, claims 1 and 9 are amended; and claims 17 and 18 are canceled.

In numbered paragraph 6, independent claims 1 and 9, along with various dependent claims, are rejected as being anticipated by U.S. Patent No. 6,747,957 to Pithawala et al. (Pithawala). In paragraph 13, independent claims 1 and 9, along with various dependent claims, rejected as being anticipated by U.S. Patent No. 6,704,284 (Stevenson). In number paragraph 21, dependent claims 2-4 and 10-12 are rejected as being unpatentable over the Pithawala patent in view of U.S. Patent No. 6,178,449 to Forman et al. (Forman). In numbered paragraph 31, dependent claims 7, 15, 17 and 18 are rejected as being unpatentable over the Pithawala patent, in view of U.S. Patent No. 6,661,778 to Trofin et al. (Trofin). These rejections are respectfully traversed.

Applicants have disclosed a method and a computer based system for managing a network, including transmitting a signal from a network manager to each of plural nodes to determine the availability of each node to a response time of each node using the signal (e.g., paragraph [0007]). The response time for each node is relayed to a database of the network manager (e.g., paragraph [0009]). As exemplified in Fig. 2, a signal can be transmitted to a high priority node more frequently than to low priority nodes 114, and/or low priority node signals can be periodically filtered 116 so that the response time is updated based on a node priority (e.g., paragraph [0010]).

The foregoing features are broadly encompassed by claim 1, which recites, among other features, a method of managing a network, including transmitting a signal from a network manager to each of plural nodes to determine the availability of each node, determining a response time of each node using the signal, and relaying the response time of each node to a database of the network manager, wherein the response time is updated based on a node priority.

On pages 2 and 3 of the Office Action, the Examiner asserts that the Pithawala et al. and the Stevenson et al. patents disclose transmitting a signal from a network manager to each of plural nodes to determine the availability of each node. Notwithstanding the Examiner's assertions, the Pithawala et al. and the Stevenson et al. patents do not disclose or suggest a response time being updated based on a node priority, as recited in claims 1 and 9. The Examiner at page 7 of the Office Action admits that Pithawala "did not expressly teach steps of designating at least one of the plural nodes as one of a high priority node and a low priority node."

The Stevenson et al. patent discloses that a network management station may send a signal to a device and monitor the time taken to receive a response from the device (col. 4, lines 48-55). The Stevenson patent further discloses that the network management station will monitor the time taken to receive a response from the device (column 4, lines 51-55). However, the Stevenson patent does not disclose relaying the response time of each node to a database, and updating the response time based on a node priority, as further recited in claims 1 and 9.

The Trofin et al. patent, considered individually or in combination with the Pithawala et al. and the Stevenson et al. patents, does not cure the deficiencies of the Pithawala et al. and the Stevenson et al. patents. The Trofin patent relates to

statistical collection in a data communication network in which the status of the nodes included in the various segments within the network is verified (abstract). The Trofin et al. patent discloses that the prioritization scheme that determines how often status monitoring packets are sent to the various nodes may be based on the frequency with which the statistics for the particular node are requested. (col. 3, lines 61-67). However, the Trofin et al. patent is silent with respect to a collection and update of response time, and does not teach or suggest that a response time is updated based on a node priority (e.g., paragraph [0010]).

The Forman patent fails to overcome deficiencies of the Pithawala patent. The Forman patent controls the operation of a transaction time measurement mechanism 390 (column 5, lines 23-29; Figure 3). The transaction time disclosed in the Forman patent does not relate to the update of response time as claimed. Rather, the Forman patent's transaction time relates to the time for a server system to process a particular application as requested (column 5, lines 46-52).

Accordingly, any combination of features from the Trofin and the Forman patents with features of the Pithawala patent would not have resulted in the presently claimed invention. At best, any such combination would have resulted in providing a network availability monitor as taught by the Pithawala patent with a discriminating capability as taught by the Trofin patent or the transaction time measured by a server in the Forman patent to ascertain whether a node is available or whether the node is down.

For at least the foregoing reasons, Applicants' claims 1 and 9 are allowable over the Pithawala et al. and the Stevenson et al. patents, considered individually or in combination with the Forman patent and/or the Trofin patent. The remaining

claims depend from independent claims 1 and 9 and recite additional advantageous features which further distinguish over the documents relied upon by the Examiner.

The present application is considered in condition for allowance. All objections and rejections raised in the Office Action having been addressed it is respectfully submitted that the application is in condition for allowance and a Notice of Allowance is respectfully solicited.
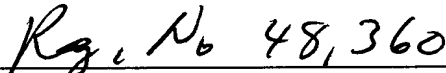
Respectfully submitted,

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Date: June 15, 2005

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